



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

*Olympia, WA 98504-5000*

March 22, 2006

John Landsverk, Chair  
Braam Oversight Panel  
110 Fifth Avenue SE, 2<sup>nd</sup> floor  
Olympia, WA 98501

Dear Mr. Landsverk:

Thank you for the opportunity to provide comments and additional documentation in response to the March 10, 2006 Monitoring Report. We appreciate the Panel's work in assessing the current status of the many Action Steps included in the Settlement Agreement.

The response of Children's Administration is enclosed for your review and consideration. Where indicated in the response, we are also providing some additional supporting documentation to Roxanne. Although I did not take part in the early discussions regarding the purpose of the embargo period, it is my understanding that one purpose is to allow the parties to provide information and feedback to the Panel to supplement the report where such information is readily available and, to the extent Children's Administration believes the report may contain factual errors or not accurately reflect the work done by the agency or the status of a particular Action Step, to offer suggestions for amendment prior to its release to the public.

The attached response makes a number of such suggestions to particular Action Steps in the order that they appear in both the Monitoring Report and the Settlement Agreement. We choose this format instead of inserting our comments and suggestions into the matrix as it seems to provide more opportunity for a fully detailed response where such is warranted. Although some of our suggestions may appear critical, we hope that you will view them as constructive and as part of our ongoing effort to collaborate fully with the Panel in achieving the goals set forth in the Settlement Agreement. As this is the first of many monitoring reports, we all share an interest in developing both the format and process so that the reports are clear, functional and – above all – useful in assisting Children's Administration and the plaintiffs in our ongoing efforts to improve conditions for children in foster care in the State of Washington.

In addition to the specific suggestions and comments in the enclosed response, we have some general comments and concerns regarding the format and tone of the monitoring report.

First, the use of only complete or incomplete as a means of reporting on the status of Action Steps does not appear to provide a full and balanced picture of what the Department has actually accomplished to date. This is especially the case for those Action Steps where the Department has completed most of the subcomponents of a particular Action Step or otherwise substantially complied with the Action Step. We note that in the "Approach and Summary Findings" section of the Monitoring Report, you state that documentation provided by the state did not consistently identify which subcomponents of the action steps were completed, so that the Panel had to apply



some judgments. However, it does not appear that the Panel identified which subcomponents of action steps were completed anywhere in the Report, even when the documentation was clear. Hopefully, the additional documentation we are providing the Panel will rectify this.

Related to this, the use of only complete or incomplete to report the status of an Action Step does not allow anyone reading the Report to weigh the relative significance of what has been accomplished to date against what remains to be done. For example, there are several Action Steps where Children's Administration has developed and implemented – or is in the process on implementing – important policy changes required by the Settlement Agreement or is providing ongoing training to caregivers or staff. However, the Action Steps are identified as incomplete because Children's Administration cannot at this time adequately document compliance due to the problems with the CAMIS system. While we recognize and accept that such documentation may be required before the Panel can say one of these Action Steps is fully completed, it diminishes the important fact that the actual policy or training is under way. Also, where it is clear that CAMIS is inadequate for documentation, there is no reference in the Report of the ongoing efforts of Children's Administration to work with the Oversight Panel to establish alternate means of documentation to use until such time as our new SACWIS system is operational.

There are also some Action Steps that have been identified as incomplete because compliance reports are not yet due, even though the Department has completed all or most of the remaining subcomponents of those Action Steps. In some of these Steps, the documentation requirement of the original KCF 2 Action Step is either inconsistent with the documentation requirements of the Implementation Plan or is not likely to be useful until such time as baselines are set pursuant to the Implementation Plan. For the most part, it appears that the Panel only uses "not yet due" for an Action Step when the first subcomponent of that step has yet to occur. But again, the use of only complete or incomplete in these instances is both misleading and does not provide an objective picture of what has occurred to date.

Identifying these issues is important not only to address issues of public perception and stakeholder confidence in the process, but to assist the Department in the next steps of the process. It is unclear to us at this point as to how the use of the term "incomplete" in the Report will relate to the provisions in the Settlement Agreement regarding non-compliance by the Department based on a failure to implement Action Steps. Hopefully, we will be able to clarify this issue at Friday's meeting. However, as you know, Children's Administration will at some point have the opportunity to submit a proposed compliance plan. The more objective, concrete and complete the Monitoring Report can be, the more guidance it will provide to both the Department and the Plaintiffs as to what will be required in such a plan.

A second concern we have is with the tone of the Monitoring Report. In some places, there are comments that appear to be unnecessarily critical or even punitive. Clearly, the report speaks for itself so it is not clear to us where this is coming from or why it may have been deemed necessary to include these comments.

One example is on page 11 of the Monitoring Report, where the Panel determined that the Action Step requiring notice to a child's representative prior to a placement move is complete. However,

the comments quote an earlier report from Children's Administration saying that "results [of a pending review will be] sent to Panel 'after we have assimilated them.'" It is unclear why this is quoted in the context of this Action Step. In similar circumstances, any child welfare agency would review data after compiling it and before sending it on. A similar comment is made on page 15 as to the Action Step on implementation of an after-hours crisis support line for foster parents.

Also on page 11, the comments as to the Action Step on establishing pilot programs for therapeutic foster care say "Only 12 children in program; capacity limited to 30 children." But as we indicate in our response to this Action Step, this is a new program that requires careful matching of children with the treatment homes and that it would not be in the best interest of children to interrupt or terminate current placements simply to fill treatment home vacancies. While perhaps unintended, the comment, without additional explanation, could easily be construed as criticism that Children's Administration is dragging its feet in utilizing this program.

It may be that we are being overly sensitive and we are also aware of some of the frustrations that can arise in an ongoing endeavor such as this, particularly given its scope and duration and the fact that it breaks new ground for all of us. We are mindful of the fact the Settlement Agreement requires the Department and the Panel to work in a collaborative relationship. While collaboration is not defined in the Settlement Agreement, the most relevant dictionary definitions are "to work jointly with others or together in an endeavor" and "to cooperate with an agency or instrumentality with which one is not immediately connected." In this regard, we hope you accept our general concerns regarding the Monitoring Report, as well as our specific responses to particular Action Steps, as indicative of our intent to work with you to foster and renew a collaborative working relationship.

I would also like to respond to one issue raised by the Plaintiff's in their response to the Monitoring Report. In providing information to the Panel for the Report, Children's Administration identified some areas where there were resource issues that need to be addressed prior to or as part of implementation. For the most part, this is different than those Action Steps from KCF 2 which were specifically tied to or dependent on the Department's 2005 budget request. We have addressed that issue in our responses to those particular Action Steps. Wherever we made a general reference to resource issues as to an Action Step, it was quoted by the Panel in the comments column. The Plaintiffs in turn are now asking you to find in each case that the Department did not ask for funding for that particular item in its decision package for the State's 2006 supplemental budget.

We feel that this would not be an appropriate assessment for the Panel to make. For one thing, the issues regarding the limitations of a supplemental budget have been thoroughly addressed by the Department to both the plaintiffs and to stakeholders and there is no need for the Panel to take a position on this matter. Second, pursuant to the Settlement Agreement, it is the responsibility of the Department to identify in a compliance plan "those Benchmarks or Action Steps which have not been implemented or achieved or which can not be implemented or achieved due to lack of fund." V.B.2 This is not a function of the Panel and it should not use the monitoring and compliance reports to short circuit the process agreed to by the parties.

Braam Oversight Panel  
March 22, 2006  
Page 4

Third, and most important, the response by the Plaintiffs misconstrues the nature of our comments regarding resources. Resources are more than simply funding and a lack of new funding in the budget does not mean that Children's Administration will not be able to obtain needed resources for some or all of these Action Steps. Nor should it be assumed that new funding automatically translates into available resources. For instance, the supplemental budget provides Children's Administration with a number of new social worker FTE's. However, we still need to recruit and train new social workers and this cannot be done overnight. There will continue to be "resource issues" in a number of areas until such time as we can fully operationalize these workers. To imply that if DSHS had ignored the directives of OFM and the Governor's office and unilaterally requested funding in the supplemental budget, resource issues and shortages would no longer be a problem is both misleading and disingenuous.

Thank you for the opportunity to respond to the March 10, 2006 Monitoring Report.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl Stephani", followed by a long horizontal flourish.

Cheryl Stephani  
Assistant Secretary  
Children's Administration

Enclosures

C: Braam Oversight Panel Members  
Steve Hassett  
Plaintiffs  
Roxanne Lieb